

§ 31.3306(c)(5)–1

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American aircraft, do not constitute employment in any event.

(f) The provisions of section 3306(c)(4) and of this section, insofar as they relate to services performed on or in connection with an aircraft not an American aircraft, apply only to services performed after 1961 for which remuneration is paid after 1961.

[T.D. 6658, 28 FR 6637, June 27, 1963]

§ 31.3306(c)(5)–1 Family employment.

(a) Certain services are excepted from employment because of the existence of a family relationship between the employee and the individual employing him. The exceptions are as follows:

(1) Services performed by an individual in the employ of his or her spouse;

(2) Services performed by a father or mother in the employ of his or her son or daughter; and

(3) Services performed by a son or daughter under the age of 21 in the employ of his or her father or mother.

(b) Under paragraph (a) (1) and (2) of this section, the exception is conditioned solely upon the family relationship between the employee and the individual employing him. Under paragraph (a)(3) of this section, in addition to the family relationship, there is a further requirement that the son or daughter shall be under the age of 21, and the exception continues only during the time that such son or daughter is under the age of 21.

(c) [Reserved] For further guidance, see § 31.3306(c)(5)–1T(c).

(d) [Reserved] For further guidance, see § 31.3306(c)(5)–1T(d).

(e) [Reserved] For further guidance, see § 31.3306(c)(5)–1T(e).

[T.D. 6516, 25 FR 13032, Dec. 20, 1960; 25 FR 14021, Dec. 31, 1960, as amended by T.D. 9554, 76 FR 67365, Nov. 1, 2011]

§ 31.3306(c)(5)–1T Family employment (temporary).

(a) [Reserved] For further guidance, see § 31.3306(c)(5)–1(a).

(b) [Reserved] For further guidance, see § 31.3306(c)(5)–1(b).

(c) Services performed in the employ of a corporation are not within the exception, except as provided in paragraph (d) of this section. Services per-

formed in the employ of a partnership are not within the exception unless the requisite family relationship exists between the employee and each of the partners comprising the partnership.

(d) A disregarded entity that is treated as a corporation under § 301.7701–2(c)(2)(iv)(B) of this chapter (Procedure and Administration Regulations) shall not be treated as a corporation for purposes of applying section 3306(c)(5). For purposes of applying section 3306(c)(5), the owner of the disregarded entity will be treated as the employer.

(e) Paragraphs (c) and (d) of this section apply with respect to wages paid on or after November 1, 2011. However, taxpayers may apply paragraphs (c) and (d) of this section to wages paid on or after January 1, 2009.

(f) *Expiration date.* The applicability of paragraphs (c) and (d) of this section expires on or before [October 31, 2014].

[T.D. 9554, 76 FR 67365, Nov. 1, 2011]

§ 31.3306(c)(6)–1 Services in employ of United States or instrumentality thereof.

(a) *Services in employ of United States or wholly-owned instrumentality thereof.* Services performed in the employ of the United States Government, except as provided in section 3306(n) (see § 31.3306(n)–1), are excepted from employment. Services performed in the employ of an instrumentality of the United States which is wholly owned by the United States also are excepted from employment.

(b) *Services in employ of instrumentality not wholly owned by United States—(1) Services performed after 1961.* Services performed after 1961 in the employ of an instrumentality of the United States which is partially owned by the United States are excepted from employment, if the remuneration for such service is paid after 1961. Services performed after 1961 in the employ of an instrumentality of the United States which is neither wholly owned nor partially owned by the United States are excepted from employment if (i) the instrumentality is exempt from the tax imposed by section 3301 by virtue of any provision of law which specifically refers to section 3301 or the corresponding section of prior law in granting exemption from such tax, and